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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

MESCALERO APACHE SCHOOL)

Request for Review of the Decision of)
The Universal Service Administrator)

Application File No. SLD-317139

Funding Request No. 838498

Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45

Changes to the Board of Directors of the)
National Exchange Carrier Association)

CC Docket No. 97-21

Schools and Libraries Universal)
Support Mechanism)

CC Docket No. 02-6

To: The Commission

APPLICATION FOR REVIEW

Mescalero Apache School (Mescalero), pursuant to Sections 1.115(a) and 54.719(c) and 1.115(a) of the Commission's Rules, 47 C.F.R. §1.115(a), 54.719(c), hereby seeks review of an order of the Telecommunications Access Policy Division of the Wireline Competition Bureau (Bureau), DA 02-3509, released December 23, 2002 [hereinafter "Order"]. The Order denied an appeal that Mescalero timely filed on October 30, 2002 [hereinafter "Request For Review"]² and affirmed the Administrator's Decision, issued on September 11, 2002 by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company: that rejected Mescalero's September 10, 2002 appeal [hereinafter "Request For Administrator Review"]⁴ of

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List ABOVE

¹ A copy of the Order (released December 23, 2002) is provided in Attachment 1.

² A copy of the Request For Review (filed October 30, 2002) is provided in Attachment 2.

³ A copy of the Administrator's Decision (issued September 11, 2002) is provided in Attachment 3.

⁴ A copy of the Request For Administrator Review (filed September 10, 2002) is provided in Attachment 4.

the Funding Commitment Decision Letter issued by the SLD on July 1, 2002.⁵ For the reasons stated below, the Commission should reverse the Order and grant Mescalero's Request For Administrator Review and Request For Review.

I. Questions Presented For Review

The questions presented for review are whether special circumstances justify consideration of Mescalero's appeal of the Funding Commitment Decision Letter and grant of its funding request. Consideration of these questions is warranted because the Order contains an erroneous finding as to an important or material question of fact and conflicts with case precedent and Commission policy.

11. Special Circumstances Justify Consideration Of Mescalero's Appeal

A. Background

On February 5, 2002, the SLD addressed a Receipt Acknowledgment Letter to Mescalero to notify it that its FCC Form 471 application (Services Ordered and Certification Form), reflecting \$289,698 in pre-discount costs for internal connections (impacting 448 students) for Funding Year 5 (July 1, 2002 – June 30, 2003) had been received and the data entered (Application Number 317139). Attachment 3 to Mescalero's application itemized the Dell Computer servers and related software and equipment that were the subject of that application. In the Funding Commitment Decision Letter dated July 1, 2002, the SLD denied Mescalero's funding request (Funding Request Number 838498) stating, at page 6, that "[t]he service/product requested is not being used in accordance with program rules."⁶

By letter faxed to the SLD on September 10, 2002 [hereinafter "Request For Administrator Review"], Mescalero appealed the Funding Commitment Decision Letter. Mescalero explained that its appeal was being filed outside the 60 day because Mescalero had

⁵ A copy of the Funding Commitment Decision Letter (issued July 1, 2002) is provided in Attachment 5.

⁶ *Id.*

been in a transition period during the summer, “moving the entire school district including all K-12 schools into a new school facility, and the Funding Commitment Letter had not been read until August. Observing that the Funding Commitment Decision Letter was vague as to the reasons for denying the funding request, Mescalero showed that the SLD’s Eligible Services List for “internal connections” includes servers intended to serve as a conduit for information rather than as a source for content. Mescalero listed four eligible server types (Domain Name Server, E-mail Server, Terminal Server and Web Server), and stated that “[t]he servers are and will be high speed Conduits for the exchange of educational information between Teachers-Teachers, and Teacher-Student and vice versa.” Mescalero also stated, “We never intended to use the servers for any other purpose.”

On September 11, 2002, the Administrator’s Decision rejected the Mescalero’s September 10 appeal as untimely filed, and did not address the merits. The Administrator’s Decision stated, “[I]f you wish to continue this process, you may submit a new appeal via the United States Postal Service, stating the impediment to your filing your appeal within the original time... .” It further stated, **“The FCC must RECEIVE your appeal WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER for your appeal to be considered filed in a timely fashion.”** Administrator’s Decision (emphasis in original).

Mescalero’s Request For Review was timely filed on October 30, 2002, within 60 days of the Administrator’s Decision. Mescalero further explained the circumstances surrounding its original response to the Funding Commitment Decision Letter. It explained that the entire school district had been relocated to a new facility ten miles away, that “[m]uch of the mail received during that period of time was not delivered to the appropriate offices,” and that the Funding Commitment Decision Letter was not read until August 13, the first day of school for students whose enrollment had increased by more than 200. Mescalero further stated that

All staff were working long hours just to get furniture and books in appropriate places for all students. We felt we should appeal the non-funded decision; and consulted with our service provider for advice. Dell has not been responsive to our requests for more documentation regarding equipment ordered and the uses for same. We do understand that the initial appeal was sent outside the sixty day period (12 days over); however, we had been delayed by our attempts to obtain (from Dell) information which would make it clear that our equipment requests did indeed comply with stated guidelines and e-rate funding program intent.

Request For Review, p. 1. Again observing the vagueness of the Funding Commitment Decision Letter, Mescalero made a detailed showing that its funding request for its network infrastructure complied with the requirements of the Eligible Services List, including an attachment of its order with Dell Computer and explaining how each component satisfied eligibility requirements. Mescalero noted that it was aware that the equipment listed in its application “is the same as many other schools which did receive e-rate educational use funding” and that “Native American students deserve the same advantages afforded to other students in other schools.” Request For Review, pp. 2-4.

The Order affirmed the Administrator’s Decision and denied the Request For Review “[b]ecause the instant Request For Review was not filed within the requisite 60-day period.”

The Order further held that Mescalero had not shown good cause for waiving the 60-day deadline, stating:

Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule. In requesting funds from the schools and libraries universal support mechanism, the applicant has certain responsibilities. The applicant bears the burden of submitting its appeal to SLD within the established deadline if the applicant wishes its appeal to be considered on the merits.

The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. In light of thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant

the responsibility of adhering strictly to its filing deadlines. In order for the program to work efficiently, the applicant must assume responsibility for timely submission of its appeal to SLD if it wishes its appeal to be considered on the merits. An applicant must take responsibility for the action or inaction of those employees, consultants and other representatives to whom it gives responsibility for submitting timely appeals of SLD funding decisions on its behalf. Here, Mescalero fails to present good cause as to why it could not timely file its appeal to SLD. We therefore find no basis for waiving the appeal filing deadline.

Order, pp. 2-3 (footnotes omitted). For the reasons set forth below, the Order should be reversed and Mescalero's Request For Administrator Review and Request For Review granted.

B. Argument

As an initial matter, the basis cited in the Order for denying the Request For Review is that it "was not filed within the requisite 60-day period." Order, para. 3. That is incorrect. The Request For Review was filed on October 30, 2002, well within 60 days after issuance of the Administrator's Decision on September 11, 2002.

To the extent the Bureau refused to address the merits of Mescalero's appeal because the Request For Administrator's Review was filed outside a 60-day deadline, that decision should be reversed as well. First, the Bureau here did not reach a reasoned conclusion tied to the particular facts and circumstances of the captioned case. The Order does not explain, with any particularity, *why* the disruption caused by the transfer of an entire school district to a new location ten miles away, combined with a non-responsive vendor, should not constitute special circumstances and "good cause" that permit consideration of the school's appeal. Rather, the Order simply recites, in general terms, the applicant's responsibilities and the policy of strict adherence to deadline rules to reach the conclusion that Mescalero "failed to present good cause as to why it could not timely file its appeal to SLD." Order, para. 5-6.

Moreover, in other cases involving waivers of deadlines related to universal funding, the Bureau has taken into account considerations of hardship, equity, or more effective

implementation of overall policy on an individual basis.’ In *Buffalo City* and *Chicago Public Schools*, the Bureau applied this precept to waive deadlines where the action or inaction of a vendor was a factor in not meeting them. In those cases, the Bureau did not hold the applicant responsible for the vendor’s action or inaction. Here, the filing of Mescalero’s Request for Administrator Review was delayed because its vendor was unresponsive to its request for documentation needed to show that it complied with program requirements.’ Mescalero should not be punished for its vendor’s inaction any more than applicants in other cases.

Further, Mescalero and its students will suffer the hardship of not having access to new Domain Name, E-mail, Terminal and Web servers if the school’s appeal of the Funding Commitment Decision Letter is not considered on the merits and granted. The Commission has given special recognition to a policy of promoting Native Americans’ access to telecommunications services, a policy that should be afforded even more weight in the context of teaching Native American schoolchildren.⁹ Granting the waiver and appeal in this case will result in a more effective implementation of overall policy on **an** individual basis. The Order therefore should be reversed and Mescalero’s Request For Review and Request For Administrator’s Review granted.

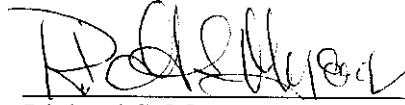
⁷ See, e.g., *In the Matter of Buffalo City School District, Federal-State Joint Board on Universal Service*, File No. SLD-262700, CC Docket Nos. 96-45 and 97-21, Order, DA 02-1464 (Wireline Comp. Bur. Rel. June 21, 2002), para. 9 (*Buffalo City*); *In the Matter of Chicago Public Schools, Federal-State Joint Board on Universal Service*, File No. SLD-263338, CC Docket Nos. 96-45 and 97-21, Order, DA 02-1975 (Wireline Comp. Bur. Rel. August 9, 2002), para. 9 (*Chicago Public Schools*).

⁸ See also *In the Matter of Mesa Vista Consolidated Schools District, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Memorandum Opinion and Order, DA 99-2037 (Com. Car. Bur. rel. September 30, 1999, para. 8 (delay caused by vendor ceasing business)).

⁹ See *In the Matter of Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes*, Policy Statement, FCC 00-207 (rel. June 23, 2000).

Respectfully submitted,
MESCALERO APACHE SCHOOL DISTRICT

By:

A handwritten signature in black ink, appearing to read "R. S. Mvers", written over a horizontal line.

Richard S. Mvers
Jay N. Lazrus
Its Attorneys

January 22, 2003

Myers Lazrus Technology Law Group
1220 19th Street, NW, Suite 500
Washington, DC 20036

(202) 296-0626

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of

Request for Review of the
Decision of the

Universal Service Administrator by

Mescalero Apache School
Mescalero, New Mexico

Federal-State Joint Board on
Universal Service

Changes to the Board of Directors of the
National Exchange Carrier Association, Inc.

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File No. SLD-317139

CC Docket No. 96-45

CC Docket No. 97-21

ORDER

Adopted: December 20, 2002

Released: December 23, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Mescalero Apache School (Mescalero), Mescalero, New Mexico.¹ Mescalero seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator), rejecting Mescalero's appeal on the grounds that it was untimely filed.² For the reasons set forth below, we affirm SLD's rejection and deny Mescalero's Request for Review.

2. SLD issued a Funding Commitment Decision Letter on July 1, 2002, denying Mescalero's request for discounted services under the schools and libraries universal service support mechanism.³ Specifically, SLD denied Mescalero's request for discounts for internal connections, Funding Request Number (FRN) 838498.⁴ On September 10, 2002, Mescalero filed an appeal of SLD's decision.⁵ On September 11, 2002, SLD issued an Administrator's

¹ Letter from Ray Swinney, Mescalero Apache School, to Federal Communications Commission, filed October 30, 2002 (Request for Review).

² See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Gino Wilcox, Mescalero Apache School, dated July 1, 2002 (Funding Commitment Decision Letter).

⁴ *Id.*

⁵ Letter from Ray Swinney, Mescalero Catholic School, to Schools and Libraries Division, Universal Service Administrative Company, tiled September 10, 2002 (Request for Administrator Review).

Decision on Appeal indicating that it would not consider Mescalero's appeal because it was received more than 60 days after the July 1, 2002 Funding Commitment Decision Letter was issued.⁶ Mescalero subsequently filed the instant Request for Review with the Commission.

3. For requests seeking review of decisions issued on or after August 13, 2001 under section 54.720(b) of the Commission's rules, any such appeal must be filed with the Commission or SLD within 60 days of the issuance of the decision that the party seeks to have reviewed? Documents are considered to be filed with the Commission only upon receipt.⁸ Because the instant Request for Review was not filed within the requisite 60-day period, Mescalero's Request for Administrator Review, we affirm the Administrator's Decision on Appeal and deny the instant Request for Review.

4. To the extent that Mescalero is requesting that we waive the 60-day deadline established in section 54.720(b) of the Commission's rules we deny that request as well.⁹ The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.¹⁰ Mescalero has not shown good cause for the untimely filing of its initial appeal. Mescalero states that it has been in a transition period from late June through August, moving its entire school district to a new school facility.¹¹ Further, Mescalero states that much of the mail received during that period of time was not delivered to the appropriate offices and that letter notifying the school of the non-funded status of its request for funding was not read until August 13, 2002.¹²

5. We conclude that Mescalero has not demonstrated a sufficient basis for waiving the Commission's rules. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.¹³ In requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities. The applicant bears the burden of submitting its appeal to SLD within the established deadline if the applicant wishes its appeal to be considered on the merits.

⁶ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Ray Swinney, Mescalero Apache School, dated September 11, 2002 (Administrator's Decision on Appeal).

⁷ 47 C.F.R. § 54.720(b). *See Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 17 FCC Rcd 339 (Com. Car. Bur. rel. Dec. 26, 2001), as corrected by *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata (Com. Car. Bur. rel. Dec. 28, 2001 and Jan. 4, 2002).

⁸ 47 C.F.R. § 1.7.

⁹ *See* 47 C.F.R. § 54.720(b)

¹⁰ *See* 47 C.F.R. § 1.3.

¹¹ Request for Review at 1

¹² *Id.*

¹³ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

6. The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of adhering strictly to its filing deadlines.¹⁴ In order for the program to work efficiently, the applicant must assume responsibility for timely submission of its appeal to SLD if it wishes its appeal to be considered on the merits. An applicant must take responsibility for the action or inaction of those employees, consultants and other representatives to whom it gives responsibility for submitting timely appeals of SLD funding decisions on its behalf. Here, Mescalero fails to present good cause as to why it could not timely file its appeal to SLD. We therefore find no basis for waiving the appeal filing deadline.

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Mescalero Apache School, Mescalero, New Mexico, on October 30, 2002, and the request to waive the 60-day time limit in which to file an appeal ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

¹⁴ See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Com. Car. Bur. rel. Nov. 24, 2000), para. 8 ("In light of the thousands of applications that SLD reviews and processes each funding year, it is administratively necessary to place on the applicant the responsibility for understanding all relevant program rules and procedures.").

MESCALERO

Apache

SCHOOL



P.O. Box 230, 249 White Mountain Drive
Mescalero, New Mexico 88340
Phone: (505) 464-1431 Fax: (505) 464-4822



"Mescalero Chief"

October 30, 2002

Letter of Appeal
Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Washington, DC 20554
Fax Number: (202)418-0187
CC Docket No. 96-45

Dear Sir or Madam:

The Mescalero Apache School wishes to **appeal an e-rate funding request decision**. The Funding Commitment Decision Letter received by our school was dated July 10, 2002. We had been in a transition period from late June through August, moving our entire school district including all **K-12** schools into a new school facility located more than ten miles from the previous site. Much of the **mail** received during that period of time was not delivered to the appropriate offices. The letter notifying the **school of the non-funded status of our request for funding** was not read until August 13, 2002. This was the first day of school for our students and the student enrollment increased by more than 200 students. All staff were working long hours just to get furniture and **books** in appropriate places for all students. We felt **we should appeal the non-funded decision; and consulted with our service provider for advice**. Dell has not been responsive to our requests for more documentation regarding equipment ordered and the uses for same. We do understand that the initial appeal was sent outside the sixty day period (**12 days over**); however, **we** had been delayed by our attempts to obtain (from Dell) information which would make it clear that our equipment requests did indeed comply with stated guidelines and e-rate funding program intent. **Because of the above extenuating circumstances**, which were explained in our initial appeal, **we now feel it is appropriate to ask that the Federal Communications Commission entities responsible for re-consideration of non-funded status e-rate requests review our appeal.**

1. **Provide your Contact information.** Please list names, address, telephone number, fax number, and e-mail address (if Available) for the person who can most readily discuss this appeal.

Contact: Ray Swinney
Voice: 505-464-4431
Fax: 505-464-4822
Email: rswinney@mescaleroas.org

2. **Identify which SLD action you are appealing.** Your Letter of Appeal must include the applicant name, the form 471 application number, and the Billed Entity Number from the top of your FCD Letter

Applicant Name: Mescalero Apache School District
Form 471 Application # 317139
Billed Entity # 147230

3. **Identify the particular Funding Request Number, wheacver applicable, that is the subject of your appeal.**

Funding Request # 838498

4. **Appeal**

Our appeal is based upon denial of requested funding on grounds that, "The services / product are not being used in accordance with program rules". The Funding Commitment Decision Explanation is a **vague** statement and does **not** fully explain why our entire **471** application was dismissed as ineligible. **We** have contacted the **SLD** and have been unsuccessful in finding **out** specifically why our application was denied. The **only** conclusion we can **draw** is that the **SLD** considered **thirty** percent or more of our services to be ineligible. The **Focus** of our appeal is to **insure** that we are using these services in accordance with **SLD** program rules.

The CC Docket No. 96-45 Schools and Libraries Eligible Services **List**, pages 26, and 27, section Titled "**Servers**" states that "A computer or device that manages network resources. ... A network file server is conditionally eligible for discount. Eligible file servers are intended to serve as a conduit for information **rather** than, as a source for content. ... Eligible servers may be used in the following capacities.

Domain Name Servers
E-mail Servers
Terminal Server
Web **Saver**."

Also, according to the eligibilities list, pages 16 and 28, "Backup equipment, used in the context of data protection, such as a tape backup system" and "Tape Backup, including technologies such as QIC, DAT, 8mm, DLT, AIT, and ADR" are all eligible components. Furthermore, according to page 25, "RAID is a category of disk that employs two or more drives in combination for fault tolerance and performance... RAID disk drives are eligible **only** if used in an eligible component, for an eligible use, such as in a server used for e-mail." And, according to pages 16, 17 and 29, "Battery Backup, a battery which provides power to a unit or system when main AC power fails"... "Uninterrupted Power Supply" are eligible and "Cabinets, an enclosure for equipment, terminating cables, connection devices and/or wires... Cabinets are eligible if the contained equipment is eligible."

We constructed our 2001-2002 (Ycnr 5) 470 and 471 forms in compliance with the Services and Eligibilities List. After completing the 470 form and waiting through the 28 day grace period, we accepted Dell as our service provider and began working with them on specifying what we needed for our new school network and to make sure everything was an eligible component. We came to a consensus that for the type of network we were wanting to construct, a network that would be hosting its own email, webpage, DHCP, and domain name services, would need to include several servers, a backup system, and a secure environment for our equipment. Dell gave us a quote of network components that satisfied our needs and complied with the eligible services list and we attached this to our 471 form and submitted it within the proper time frame.

Dell's network component quotes have been included with this appeal. A total of ten servers were specified. According to Dell Quote # 74238915, eight Dell PowerEdge 2550 were recommended. Dell Quote # 74239183 recommends two PowerEdge 1550 servers. Dell Quote # 73639720 recommends PowerEdge 4210 Cabinet. Dell Quote # 74238408 recommends backup equipment such as Dell/EMC Hard Disk Array system and tape backup, uninterrupted power supplies/battery backups, and fiber channel switches.

The PowerEdge servers consist of 1.0 GB SDRAM, Pentium Central Processors Units, dual on board NICs and other technologies that are eligible components in accordance to the eligible services list. Furthermore, a RAID 1 system is installed in each machine. The Veritas SAN, Power Suite is simply a part of the backup system that relates to some components of quote # 74238408. These network devices served our need for web and local email hosting, DHCP, as well as domain name services.

The PowerEdge 4210 Cabinet consists of a frame, doors, side panels and locking mechanisms. Also, a monitor and keyboard switchbox allowing a person to switch between and view all servers with one output device was recommended, which according to the "Monitor" section on page 22 of the eligible services list, is eligible if used with an eligible component. Additionally, three cabinet mounted uninterrupted power supplies were recommended to serve as a backup component to

ensure our servers will continue running if the loss of **AC** power should occur. These eligible services served our need to house all the equipment in a secure environment.

The Dell/EMC device is a backup system that consists of a hard drive array. This device serves the same purpose of a RAID system and allows data, through the use of fiber channeling, to be replicated from the servers' hard drives to the Dell/EMC array. This ensures data protection. The PowerVault 136T is simply a tape backup drive. Information can be sent from the RAID hard drives to a tape. The eight port fiber channel switch is a device allowing all servers, EMC arrays, and tape drives to communicate via fiber optic patch cables. "Fiber optic wiring" and "Switches" are eligible components (pgs. 28, 32). The Base 2C Optical HBA with driver for WIN 2000 helps the servers communicate with the fiber switch therefore allowing data to be rapidly replicated to the EMC RAID system and the tape backup system. These devices satisfy our need for data backup and protection.

Because the Funding Commitment Decision Explanation is vague, we are having a difficult time understanding why our request was not funded. We believe the design of our network infrastructure complies with all regulations stated in the Schools and Libraries Eligible Services list. We are especially frustrated since we are aware the equipment listed in our application is the same as many other schools which did receive e-rate educational use funding. We would, as stated, be most appreciative of FCC staff oversight in this process; as we do feel our Native American students deserve the same advantages afforded to other students in other schools.

5. Provide an authorized signature on your letter of appeal when you file your appeal by mail) by express delivery service, by hand delivery Service, or by facsimile.



Ray Swinney
Superintendent
Mescalero Apache School

Attachment Number: 003

BELL

E Com

QUOTATION

QUOTE #: 74238915

Customer #: 11386117

Quote Date: 1/15/02

Date: 11161022:10:13 PM

Customer Name: QUOTE DELL

TOTAL QUOTE AMOUNT:	\$72,728.00		
Product Subtotal:	\$72,728.00		
Tax:	\$0.00		
Shipping & Handling:	\$0.00		
Shipping Method:	Ground	Total Number of System Groups:	1

GROUP: 1 QUANTITY: 8 SYSTEM PRICE: \$9,091.00 GROUP TOTAL: \$72,728.00

Base Unit:	PowerEdge 2550, Pentium III, 1.26GHz, 512K Cache (220-8897) ✓
Processor:	2nd Processor, Pentium III, 1.26GHz, 512K Cache PowerEdge 2550 (311-1174)
Memory:	1.0GB SDRAM, 133MHz, 4X 256MB DIMMs (311-0853)
Keyboard:	No Keyboard Option (310-3251)
Monitor:	No Monitor Option (320-0058)
Hard Drive:	36GB U160M SCSI, 1 in, 10000 RPM Hard Drive, PowerEdge 2550 (340-2334)
Hard Drive Controller:	Raid Enabler, PERC3-DI, 128MB, With Documentation, for Dell PowerEdge 2550 (340-2437)
Floppy Disk Drive:	1.44MB, 3.5", Floppy Drive, for Dell PowerEdge Servers, Factory Install (340-5858)
Operating System:	Windows 2000 Server, 5 Client Access Licenses, English, 4GB Partition (420-0235)
Operating System:	Dell OpenManage Kit, 32-Bit (310-1261)
Mouse:	Mouse Option None (310-0024)
NIC:	Dual On-Board NICs ONLY (430-8991)
CD-ROM or DVD-ROM Drive:	24X IDE Internal CD-ROM, Black, for Dell PowerEdge (313-0317)
Speakers:	4 Bay Hard Drive Backplane, (1.0 in only), PowerEdge 2550 (311-1296)
Documentation Diskette:	Electronic Documentation on CD (310-0438)
Bundled Software:	DellPlus, Information, Hard Drive, Install Increasing Order, Factory Install (361-1722)
Bundled Software:	DellPlus, Information, Customer Experience, Windows 2000, Install Generic Servers, Factory Install (361-3708)
Bundled Software:	DellPlus, Multi, Information, RAID1, ALL, Factory Install (361-6553) ✓
Bundled Software:	DellPlus, Information, Hotspare, Hard Drive, Factory Install (361-8988) ✓
Bundled Software:	DellPlus, Information, Validator, Windows 2000, Order Ready, Factory Install (363-4647)
Bundled Software:	DellPlus Routing SKU, Factory Install (365-0257)
Bundled Software:	DellPlus, Integration Service, OR-Raid, With Default Operating System, Servers (365-4304)
Additional Storage Products:	36GB U160M SCSI, 1 in, 10000 RPM Hard Drive, PowerEdge 2550 (340-2334)
Factory Installed Software:	Veritas SAN, Power Suite (420-2835)
Option 1:	C2, MR0, ROMB 0, for Dell PowerEdge 2550 (340-2492)
Option 2:	Rapid Rails for Dell Rack (310-5886)
Service:	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response, Initial Year (900-6350)

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1/16/02

Service:	Type 2 Contract - Same Day 4-Hour 7x24 Parts & Labor On-Site Response 2YR Extended (900-6352)
Service:	Premier Enterprise Support - Software Support Quantity 3 Resolutions (960-0227)
Installation:	PowerEdge 2x60/4x60/8x60/8x60 Server Installation, Quantity 1, (900-6378)
Misc:	Power Supply, 330W, 2 Units, DOM, Redundant, for Dell Servers, T1ed (310-0004) ✓
Misc:	36GB U160M SCSI, 1 in, 10000 RPM Hard Drive, PowerEdge 2650 (340-2334)

TOTAL QUOTE AMOUNT:	\$72,728.00	
Product Subtotal:	\$72,728.00	
Tax:	\$0.00	
Shipping & Handling:	\$0.00	
Shipping Method	Ground	Total Number of System Groups: 1

SALES REP:	DEFAULT	PHONE:	800-727-1100
Email Address:	Default@Dell.com	Phone Ext:	

For your convenience, your sales representative, quota number and customer number have been included to provide you with faster service when you are ready to place your order. You may also place your order online at www.dell.com/quote

This quote is subject to the terms of the agreement signed by you and Dell, or absent such agreement, is subject to the applicable Dell terms and conditions agreement.

Prices and tax rates are valid in the U.S. only and are subject to change.

All product and pricing information is based on latest information available. Subject to change without notice or obligation.

LCD panels in Dell products contain mercury, please dispose properly.

Please contact Dell Financial Services' Asset Recovery Services group for EPA compliant disposal options at US_DFS_AssetRecovery@dell.com. Minimum quantities may apply.

DELL

E Com

QUOTATION

QUOTE #: 73639720

Customer #: 41396117

Quote Date: 1/8/02

Date: 1/16/02 2:10:13 PM

Customer Name: QUOTE DELL

TOTAL QUOTE AMOUNT:	\$8,544.00		
Product Subtotal:	\$8,544.00		
Tax:	20.00		
Shipping & Handling:	\$0.00		
Shipping Method:	Special	Total Number of System Groups:	1

GROUP: 1 QUANTITY: 1 SYSTEM PRICE: \$8,422.00 GROUP TOTAL: \$8,422.00

Base Unit:	PowerEdge 4210, Frame, Doors, Side Panel, Ground, 42U, PS (220-4494) ✓
	Type 3 Contract - Next Business Day Parts & Labor On-Site Response Initial Year (900-2750)
	Type 3 Contract - Next Business Day Parts & Labor On-Site Response 2YR Extended (900-2752)
	42U Rack Installation, Quantity 1, (900-5277)
	Inside Delivery Service for Dell PowerEdge Rack System (460-0586)
	42U Rack, PS, Side Stabilizing Braces (310-1281)
	12' Cable, 16 pin, Switch Box, Mouse/Keyboard/Video (310-0977) - Quantity 6
	UPS Interface Card, SNMP, 2 Port, for Dell PowerEdge Rack, Factory Install (310-0078) - Quantity 3
	PDU, 120 Volt Low Power with Locking Plug, for Dell PowerEdge Rack, Factory Install (310-3929)
	PDU, 120 Volt Low Power with Locking Plug, for Dell PowerEdge Rack, Factory Install (310-3929)
	1U, Flat Panel Monitor/Keyboard/Mouse, Tied (310-2574)
	16 Port Keyboard/Monitor Switchbox, Black, for Dell PowerEdge (310-0871)
	Uninterruptable Power Supply, APC 2200, 3U Rack Mount, for Dell PowerEdge Rack, Factory Install (310-0256) ✓
	Uninterruptable Power Supply, APC 2200, 3U Rack Mount, for Dell PowerEdge Rack, Factory Install (310-0256) ✓
	Uninterruptable Power Supply, APC 2200, 3U Rack Mount, for Dell PowerEdge Rack, Factory Install (310-0256) ✓
	PDU, 120 Volt Low Power with Locking Plug, for Dell PowerEdge Rack, Factory Install (310-3929)

SOFTWARE & ACCESSORIES

Product	Quantity	Unit Price	Total
Smart-UPS Backplate for 2200/3000 RM 3U (750205)	3	\$74.00	\$222.00
Number of S & A Items: 1		S&A Total Amount \$222.00	

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1/16/02

TOTAL QUOTE AMOUNT.	\$8,644.00		
Product Subtotal:	\$8,644.00		
tax:	\$0.00		
Shipping & Handling:	\$0.00		
Shipping Method:	Special	Total Number of System Groups:	1

SALES REP:	DEFAULT	PHONE:	800-727-1100
Email Address:	De(ault@Dall.com	Phone Ext:	

For your convenience, your sales representative, quote number and customer number have been included to provide you with faster service when you are ready to place your order. You may also place your order online at www.dell.com/quote

This quote is subject to the terms of the agreement signed by you and Dell, or absent such agreement, is subject to the applicable Dell terms and conditions agreement.

Prices and tax rates are valid in the U.S. only and are subject to change.

All product and pricing information is based on latest information available. Subject to change without notice or obligation.

LCD panels in Dell products contain mercury, please dispose properly.

Please contact Dell Financial Services' Asset Recovery Services group for EPA compliant disposal options at US_DFS_AssetRecovery@dell.com. Minimum quantities may apply.

DELL

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QUOTATION

QUOTE #: 74239183

Customer # 11396117

Quote bate: 1/15/02

Date: 1/15/02 2:10:12 PM

Customer Name: QUOTE DELL

TOTAL QUOTE AMOUNT:	\$13,612.00	
Product Subtotal:	\$13,612.00	
Tax:	\$0.00	
Shipping & Handling:	\$0.00	
Shipping Method:	Ground	Total Number of System Groups: 1

GROUP: 1	QUANTITY: 2	SYSTEM PRICE: \$6,806.00	GROUP TOTAL: \$13,612.00
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Base Unit:	PowerEdge 1550,1.26GHz/133, 512 Cache,Tualatin,Base (220-8497) ✓
Processor:	2nd Processor,1.26GHz,512K,P3 Tualatin for Dell PowerEdge/ PowerApp (311-7581)
Memory:	1.0GB SDRAM,133MHz,4X 256MB DIMMs (311-0853)
Keyboard:	No Keyboard Option (310-3281)
Monitor:	No Monitor Option (320-0058)
Hard Drive:	36GB,10000RPM,U160,1 IN, SCSI,Hard Drive (340-2488)
Hard Drive Controller:	PERC3,OC,128MB,1 Internal & 1 External Channels,With Documentation (340-2488)
Floppy Disk Drive:	1.44M,3.5 in,Third Height, Floppy Drive (340-2474)
Operating System:	Windows 2000 Server,5 Client Access Licenses,English,4GB Partition (420-0236)
Operating System:	Dell OpenManage Kit,32-Bit (310-1261)
Mouse:	Mouse Option None (310-0024)
NIC:	Dual On-Board NICS ONLY (430-8991)
CD-ROM or DVD-ROM Drive:	24X IDE Internal CD-ROM,Black,for Dell PowerEdge (313-0317)
Documentation Diskette:	Electronic Documentation on CD (310-0438)
Bundled Software:	DellPlus,Information,Hard Drive,Install Increasing Order,Factory Install (361-1722)
Bundled Software:	DellPlus,Information,Customer Experience,Windows2000,InstallGeneric Servers,Factory Install (361-3706)
Bundled Software:	DellPlus,Mult,Information, RAID1,ALL,Factory Install (361-8553) ✓
Bundled Software:	DellPlus,Information, Hotspare,Hard Drive,Factory Install (361-8968)
Bundled Software:	DellPlus,Information, Validator,Windows 2000, Order Ready,Factory Install (363-4647)
Bundled Software:	DellPlus Routing SKU,Factory Install (365-0257)
Bundled Software:	DellPlus,Integration Service, OR-Raid,With Default Operating System,Servers (365-4304)
Additional Storage Products:	36GB,10000RPM,U160,1 IN, SCSI,Hard Drive (340-2489)
Option 1:	Hard Drive Configuraton #3, Add-In Raid 0 (340-2471) ✓
Option 2:	Rapid Rails for Dell Rack (310-0618)
Service:	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response, Initial Year (800-8380)
Service:	Type 2 Contract - Same Day 4-Hour 7x24 Parts & Labor On-Site Response 2YR Extended (800-8352)

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1/16/02

Service:	Premier Enterprise Support - Software Support Quantity 3 Resolutions (950-0227)
Installation:	PowerEdge X00/1X00/2X00, Server Installation, Quantity 1 (900-8188)
Misc:	36GB,10000RPM,U160,1 IN, SCSI,Hard Drive (340-2469)

TOTAL QUOTE AMOUNT:	\$13,612.00		
Product Subtotal:	\$13,612.00		
Tax:	\$0.00		
Shipping & Handling:	\$0.00		
Shipping Method:	Ground	Total Number of System Groups:	1

SALES REP:	DEFAULT	PHONE:	800-727-1100
Email Address:	Default@Dell.com	Phone Ext:	

For your convenience, your sales representative, quote number and customer number have been included to provide you with faster service when you are ready to place your order. You may also place your order online at www.dell.com/quote

This quote is subject to the terms of the agreement signed by you and Dell, or absent such agreement, is subject to the applicable Dell terms and conditions agreement.

Prices and tax rates are valid in the U.S. only and are subject to change.

All product and pricing information is based on latest information available. Subject to change without notice or obligation.

LCD panels in Dell products contain mercury, please dispose properly. Please contact Dell Financial Services' Ascot Recovery Services group for EPA compliant disposal options at US_DFS_AssetRecovery@dell.com. Minimum quantities may apply.

DELL

74238408

Executive Summary

Customer #: 4303291

Quote Date: 01/15/2002

Date: 12/6/01

Customer Name: FPS Systems

****This Preliminary Quotation is for information and budget analysis only and is subject to verification and change based upon validation of the proposed configuration and other factors****

DELL

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QUOTATION

QUOTE #: 74238408

Customer #: 11396117

Quote Date: 1115102

Date: 1/15/02 2:10:09 PM

Customer Name: QUOTE DELL

TOTAL QUOTE AMOUNT:	\$194,714.00		
Product Subtotal:	\$194,714.00		
Tax:	\$0.00		
Shipping & Handling:	\$0.00		
Shipping Method:	Special	Total Number of System Groups:	13

GROUP: 1	QUANTITY: 1	SYSTEM PRICE: \$31,802.00	GROUP TOTAL: \$81,802.00
Base Unit:	Dell/EMC FC4500 DPE Field Installed Array (220-5768)		
	Ten Pack 73GB 10K FC Hard Disk for Dell/EMC FC4X0X DPE/ DAE (340-3380)		
	Dell/EMC Navisphere Manager Tier 5 (420-0424)		
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response Initial Year (950-1730)		
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response 2YR Extended (980-1732)		
	Premium Enterprise Support - Gold - Premium Services (950-5927)		
	Premium Enterprise Support - Gold - Advanced Software Support (950-5997)		
	DPE Installation (950-6737)		

	Dell/EMC Access Logix Tier 5 (420-0457)
	SAN Implementation, Tier 1, Less Than 8 Hosts (950-6778)
	Navisphere Manager Installation (950-6789)

GROUP: 2 QUANTITY: 1		SYSTEM PRICE: \$18,685.00	GROUP TOTAL: \$18,685.00
Base Unit:		Dell/EMC 4X6XX Disk Array Enclosure,Field Rack Install (220-6209)	
		Ten Pack 73GB 10K FC Hard Disk for Dell/EMC FC4X6X DPE/ DAE (340-3390)	
		Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response Initial Year (950-1710)	
		Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response 2YR Extended (950-1712)	
		Premium Enterprise Support - Gold - Premium Services (950-6817)	
		DAE Installation (950-6738)	

GROUP: 3 QUANTITY: 1		SYSTEM PRICE: \$43,517.00	GROUP TOTAL: \$43,517.00
Base Unit:		PowerVault 136T,LTO,100/200G, L1,CL,Rack (220-3686)	
		4XLTO,100/200G,W2FP, PowerVault 136T,with 2 Filler Panels (340-3246)	
		18 Slot Column,PowerVault 136T (340-6779)	
		12 Slot Mailbox(18 Slot), PowerVault 136T (340-2828)	
		Fiber Bridge,FC2,PowerVault 136T (340-2635)	
		Rapid Rails for Dell Rack (310-0561)	
		3XTape Media,LTO,5PK,100/200G (340-6780)	
		Redundant Power Supply,65W, PowerVault 136T (310-0522)	
		Type 2 Contract - Same Day 4-Hour 7x24 Parts & Labor On-Site Response 2YR Extended (950-6592)	
		Type 2 Contract - Same Day 4-Hour 7x24 Parts & Labor On-Site Response Initial Year (950-6730)	
		Premier Enterprise Support - Gold - Advanced Software Support (950-0117)	
		Premier Enterprise Support - Gold - Premium Services, Extended (950-0119)	
		Premier Enterprise Support - Gold - Premium Services, Initial (950-0216)	
		Installation, PV128/136T, SAN Environment (950-7727)	

GROUP: 4 QUANTITY: 1		SYSTEM PRICE: \$15,255.00	GROUP TOTAL: \$15,255.00
Base Unit:		Single 8-Port Fibro Channel Switch with 8 Short-Wave ports (220-6383)	
		6 Meter Optical Cable (310-0896)	
		Adjustable Rail Kit for 8-PortSwitch in Non EMC Rack, required for field install (310-0875)	
		Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response Initial Year (950-1720)	
		Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response 2YR Extended (950-1722)	
		Premium Enterprise Support - Gold - Premium Services (950-6927)	
		Premium Enterprise Support - Gold - Advanced Software Support (950-6987)	
		8-Port Switch Installation (950-6739)	

GROUP: 5 QUANTITY: 1 SYSTEM PRICE: \$15,255.00 GROUP TOTAL: \$15,255.00

Base Unit:	Single 8-Port Fibre Channel Switch with 8 Short-Wave ports (220-6353)
	5 Meter Optical Cable (310-0896)
	Adjustable Rail Kit for 8-Port Switch in Non EMC Rack, required for field install (310-0875)
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response Initial Year (950-1720)
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response 2YR Extended (950-1722)
	Premium Enterprise Support - Gold - Premium Services (950-5927)
	Premium Enterprise Support - Gold - Advanced Software Support (950-5967)
	8-Port Switch Installation (950-6739)

GROUP: 6 QUANTITY: 1 SYSTEM PRICE: \$3,247.00 GROUP TOTAL: \$3,247.00

Base Unit:	Base 2Gbit Optical HBA with Driver for WIN 2000 Attach (220-8490)
	5 Meter Short Wave (multi-mode) Fibre Channel Cable LC-SC (310-0793)
	Software, Navisphere Agent, WIN, EMC (420-0339)
	Software, Navisphere ATF, W2K, EMC (420-0344)
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response Initial Year (950-1740)
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response 2YR Extended (950-1742)
	HBA Installation (950-6748)
	Navisphere ATF Installation (950-5947)
	Navisphere Agent Installation (950-6758)

GROUP: 7 QUANTITY: 1 SYSTEM PRICE: \$3,247.00 GROUP TOTAL: \$3,247.00

Base Unit:	Base 2Gbit Optical HBA with Driver for WIN 2000 Attach (220-8490)
	5 Meter Short Wave (multi-mode) Fibre Channel Cable LC-SC (310-0793)
	Software, Navisphere Agent, WIN, EMC (420-0339)
	Software, Navisphere ATF, W2K, EMC (420-0344)
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response Initial Year (950-1740)
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response 2YR Extended (950-1742)
	HBA Installation (950-6748)
	Navisphere ATF Installation (950-5947)
	Navisphere Agent Installation (950-6758)

GROUP: 8 QUANTITY: 1 SYSTEM PRICE: \$3,247.00 GROUP TOTAL: \$3,247.00

Base Unit:	Base 2Gbit Optical HBA with Driver for WIN 2000 Attach (220-8490)
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	5 Meter Long Wave (single-mode) Fibre Channel Cable LC-SC (310-0812)
	Software, Navisphere Agent, WIN, EMC (420-0338)
	Software, Navisphere ATF, W2K, EMC (420-0344)
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response Initial Year (950-1740)
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response 2YR Extended (950-1742)
	HBA Installation (950-6748)
	Navisphere ATF Installation (950-5947)
	Navisphere Agent Installation (950-6758)

GROUP: 9 QUANTITY: 1		SYSTEM PRICE: \$3,471.00	GROUP TOTAL: \$3,471.00
Base Unit:	Base 2Gbit Optical HBA with Driver for WIN 2000 Attach (220-8490)		
	5 Meter Short Wave (multi-mode) Fibre Channel Cable LC-SC (310-0793)		
	Software, Navisphere Agent, WIN, EMC (420-0338)		
	Software, Navisphere ATF, W2K, EMC (420-0344)		
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response Initial Year (950-1740)		
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response 2YR Extended (950-1742)		
	HBA Installation (950-6748)		
	Navisphere ATF Installation (950-5947)		
	Navisphere Agent Installation (950-6758)		
	5 Meter Short Wave (multi-mode) Fibre Channel Cable LC-SC (310-0793)		

GROUP: 10 QUANTITY: 1		SYSTEM PRICE: \$1,691.00	GROUP TOTAL: \$1,691.00
Base Unit:	Base 2Gbit Optical HBA with Driver for WIN 2000 Attach (220-8490)		
	5 Meter Short Wave (multi-mode) Fibre Channel Cable LC-SC (310-0793)		
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response Initial Year (950-1740)		
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response 2YR Extended (950-1742)		
	HBA Installation (950-6748)		

GROUP: 11 QUANTITY: 1		SYSTEM PRICE: \$1,691.00	GROUP TOTAL: \$1,691.00
Base Unit:	Base 2Gbit Optical HBA with Driver for WIN 2000 Attach (220-8490)		
	5 Meter Short Wave (multi-mode) Fibre Channel Cable LC-SC (310-0793)		
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response Initial Year (950-1740)		
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response 2YR Extended (950-1742)		
	HBA Installation (950-6748)		

GROUP: 12 QUANTITY: 1		SYSTEM PRICE: \$1,691.00	GROUP TOTAL: \$1,691.00
Base Unit:		Base 2GBR Optical HBA with Driver for WIN 2000 Attach (220-8490)	
		5 Meter Short Wave (multi-mode) Fibre Channel Cable LC-SC (310-0783)	
		Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response Initial Year (950-1740)	
		Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response 2YR Extended (950-1742)	
		HBA Installation (950-8748)	

GROUP: 13 QUANTITY: 1		SYSTEM PRICE: \$1,915.00	GROUP TOTAL: \$1,915.00
Base Unit:	Base 2Gb/s Optical HBA with Driver for WIN 2000 Attach (220-8490)		
	5 Meter Short Wave (multi-mode) Fibre Channel Cable LC-SC (310-0783)		
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response Initial Year (950-1740)		
	Type 2 Contract - Same Day 4-Hour 7x24 Parts and Labor On-Site Response 2YR Extended (950-1742)		
	HBA Installation (950-6748)		
	5 Meter Short Wave (multi-mode) Fibre Channel Cable LC-SC (310-0783)		

TOTAL QUOTE AMOUNT:		\$194,714.00	
Product Subtotal:	\$194,714.00		
Tax:	\$0.00		
Shipping & Handling:	\$0.00		
Shipping Method:	Special	Total Number of System Groups:	13

SALES REP:	DEFAULT	PHONE	800-727-1100
Email Address:	Default@Dell.com	Phone Ext:	



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal

September 11, 2002

Ray Swinney, Superintendent
Mescalero Apache School District
P.O. Box 230
210 Central Mescalero Ave
Mescalero, New Mexico 88340

Re: Application Number: 317139
Funding Year: 2002-2003
- Date of Issuance of ~~(Rejection Letter)~~
Postcard Notification/Funding
Commitment ~~Letter~~: 07/01/2002
Date Appeal Received 09/10/2002

Our records show that your appeal was received more than 60 days after the date your Form 471 Certification-Rejection Letter was issued (see dates above). The Federal Communications Commission (FCC) rules require applicants to submit appeals so USAC/SLD receives them within 60 days of the date that the relevant Funding Commitment Decision Letter was issued. (See "Appeals Procedure" at <http://www.sl.universalservice.org/reference/AppealsProcedureYR4.asp>) The FCC rules do not permit the SLD to consider your appeal. If you wish to continue this process, you may submit a new appeal via the United States Postal Service, stating the impediment to your filing your appeal within the original time, to the FCC at the following address:

Federal Communications Commission
Office of the Secretary
445 12th street, S.W.
Washington, DC 20554

If you are submitting your appeal to the FCC by means other than the United States Postal Service, check the SLD web site for more information. Please reference CC Docket Nos. 96-45 and 97-21 on the first page of your appeal. The FCC must RECEIVE your appeal WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER for your appeal to be considered filed in a timely fashion. Further information and new options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site, www.sl.universalservice.org, or by contacting the Client Service Bureau at 1-(888)-203-8100.

Schools and Libraries Division

MESCALERO

Apache

SCHOOL

P.O. Box 230, 210 Central Mescalero Ave.
Mescalero, New Mexico 88340
Phone: (505) 671-4431 Fax: (505) 671-4822



"Mescalero Chiefs"

September 10, 2002

Letter of Appeal
Schools and Library's Division
Box 125-Correspondence Unit
80 South Jefferson Road
Wippany, NJ 07981
Fax Number: (973) 599-6542

Dear Sir or Madam:

The Mescalero Apache School wishes to appeal a funding request decision. The Funding Commitment Decision Letter received was dated July, 1 2002. Because we have been in a transition period this summer, moving our entire school district including all K-12 schools into a new school facility, the letter was not read until August 2002. At that point, we decided that we wanted to appeal and therefore consulted with our service provider for advice. I understand that this appeal is being sent outside the sixty day period (12 days over). Under the circumstances, we would appreciate the effort to still consider reviewing our appeal.

1. **Provide your Contact information.** Please list names, address, telephone number, Tax number, and e-mail address (if Available) for the person who can most readily discuss this appeal.

Contact: Ray Swinney

Voice: 505-464-4431

Fax: 505-464-4822

Email: rswinney@mescaleroas.org

2. **Identify which SLD action you are appealing.** Your Letter of Appeal must include the applicant name, the form 471 application number, and the Billed Entity Number from the top of your FCD Letter

Applicant Name: Mescalero Apache School District
Form 471 Application # 317139
Billed Entity # 147230

3. Identify the particular Funding Request Number, whenever applicable, that is **the subject** of your appeal.

Funding Request # 830498

4. Appeal

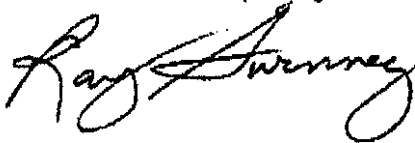
Our appeal is based upon the denial that, "Tho **services** / product are not being **used** in accordance **with** program rules". Your School and Services Eligibilities List, pages 26, and 27, section Titled "Servers" states that "**A** computer or device that mnnnges **network** resources. ...**A** network file server is conditionally eligible **for** discount. Eligible **file** servers are intended to **serve** as a conduit for information rather than as a source for content., ...Eligible sewers may bc used in the following capacities.

Domain Name Servers
E-mail Servers
Terminal Server
Web Server."

The above listing of eligibilities is exactly **how we** are using **the servers**. The servers **are** and will be high speed Conduits for the exchange of educational information between Teachers-Teachers, and Teacher -Student and vice versa. We never intended to **use the servers** for **any** other purpose.

Because the Funding Commitment Decision Explanation is **vague**, we **are** having a **difficult time** understanding why our **request was** not funded.

5. Provide an authorized **signature on your letter of appeal when you file your appeal hy mail, by express delivery service, by hand delivery Service, or by facsimile.**



Ray Swinney
Superintendant
Mescalero Apache School



Universal Service Administrative Company
Schools & Libraries Division

FUNDING COMMITMENT DECISION LETTER

(Funding Year 2002: 07/01/2002 - 06/30/2003)

July 1, 2002

MESCALERO APACHE SCHOOL DIST.
Gino Wilcox
PO BOX 230 216 OLD MESCALERO BLVD.
MESCALERO, NM 88340

Re: Form 471 Application Number: 317239
Funding Year 2002: 07/01/2002 - 06/30/2003
Billed Entity Number: 147230
Applicant's Form Identifier: 471-3

Thank you for your Funding Year 2002 E-rate application and for any assistance you provided throughout our review. We have completed our review of your Form 471. This letter is to advise you of our decision(s).

FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. We have reviewed each Discount Funding Request on your Form 471 application and have assigned a Funding Request Number (FRN) to each Block 5. The enclosed report includes a list of the FRNs from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) upon the filing of your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

NEXT STEPS

FILE FORM 486. Once you have reviewed this letter and have determined that some or all of your requests have been funded, our next step to facilitate receipt of discounts as featured in this Letter will be to file an FCC Form 486 with the SLD. The Form 486 notifies the SLD to begin payment to your service provider and provides certified indication that your technology plan(s) has been approved by an SLD certified Technology Plan Approver. The Form 486 and instructions and the list of SLD certified Technology Plan Approvers can be found on the SLD web site at www.sl.universalservice.org or you can call the SLD Client Service Bureau at 1-888-203-8100 and ask that the form be sent to you. The Form 486 dated July, 2001 in the lower right corner MUST be used for Funding Year 2002 and for any previous funding years. Submissions of earlier versions of the Form 486 will be returned to you and will not be able to be processed. As you complete Form 486, you should also contact your service provider to verify they have received notice from the SLD of your funding commitments. After the SLD processes your Form 486, we can process invoices for services that have been provided to you.

DEADLINE FOR FORM 486. Form 486 must be postmarked within 120 days of the Service Start Date featured on the Form 486 or within 120 days of the date of the Funding Commitment Decision Letter, whichever is later. If the Form 486 is postmarked after the later of those two dates, the date 120 days before the Form 486 postmark date will become the start date for discounted services. If the service start date is moved, your funding commitment may be reduced. You are advised to keep proof of the date of mailing of your form(s).

Box 125 Correspondence Unit, 80 South Jefferson Road, Whippany, New Jersey, 07981

Visit us online at: <http://www.sl.universalservice.org>

REVIEW CIPA REQUIREMENTS. On December 21, 2000, the Children's Internet Protection Act (CIPA) was signed into law. That law requires schools and libraries that receive Universal Service discounts for certain services to adopt an Internet safety policy incorporating the use of filtering or blocking technology on computers with Internet access as a condition of receiving those discounts. Funding Year 2002 may be the Second Funding Year for purposes of CIPA for one or more schools and/or libraries represented on your Form 486. (Funding Year 2002 is the Second Funding Year for purposes of CIPA for a school or library if a Form 486 for Internet access or internal connections was successfully data entered for Funding Year 2001. See the section of the Form 486 Instructions entitled "Impact of CIPA Requirements on Form 486" for more information on First, Second and Third Funding Years.) If Funding Year 2002 is the Second Funding Year for purposes of CIPA for one or more schools and/or libraries represented on your Form 486, those school(s) and/or library(ies) must certify that they are in compliance with CIPA unless state or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required. A school or library so prevented may request a waiver for Funding Year 2002. Certification(s) for purposes of CIPA and CIPA waiver request(s) must be made on the Form 486 or the Form 479, whichever is appropriate. See the Form 486 Instructions and the Form 479 Instructions for more information. You may also refer to the SLD web site at <www.sl.universalservice.org> or call the Client Service Bureau at 1-888-203-8100 for more information about Form 486, Form 479, and the requirements of CIPA.

FILE FORM 472 (APPLICANT) or FORM 474 (SERVICE PROVIDER). After a Form 486 has been properly filed, the SLD must receive an invoice from either the applicant or the service provider in order to make payments for approved discounts on eligible services. Form 472 Billed Entity Applicant Reimbursement (BARR) Form, is filed by the applicant; Form 474, SLD Provider Invoice Form, is filed by the service provider.

NEW DEADLINES FOR INVOICES. Invoices must be postmarked within 90 days of the last date to receive service or within 90 days of the date of the Form 486 Notification Letter, whichever is later. If an invoice is postmarked after the later of those two dates, payment will be denied.

TO APPEAL THESE FUNDING COMMITMENT DECISIONS

If you wish to appeal the Funding Commitment Decision(s) (FCD) indicated in this letter, your appeal must be RECEIVED BY THE SCHOOLS AND LIBRARIES DIVISION (SLD) WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which FCD Letter you are appealing. Indicate the relevant funding year and the date of the Funding Commitment Decision letter. Your letter of appeal must also include the applicant name, the Form 471 Application Number, and the Billed Entity Number from the top of your FCD Letter.
3. Identify the particular Funding Request Number (FRN) that is the subject of your appeal. When explaining your appeal, include the precise language or text from the Funding Commitment Decision Letter that is at the heart of your appeal. By pointing us to the exact words that give rise to your appeal, the SLD will be able to more readily understand and respond appropriately to your appeal. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125 - Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by calling the Client Service Bureau.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket Nos. 96-45 and 97-21 on the first page of your appeal to the PCC. Your appeal must be RECEIVED BY THE FCC WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER. Failure to meet this requirement will result in automatic dismissal of your appeal. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by calling the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options because of continued substantial delays in mail delivery.

to the PCC. If you are submitting your appeal via United States Postal Service, send to:
FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the universal service mechanisms for schools and libraries. FCC Form 471 Applicants who have received funding commitments continue to be subject to audits and other reviews that SLD or the Federal Communications Commission may undertake periodically to assure that funds have been committed and are being used in accordance with all such requirements. If the SLD subsequently determines that its commitment was erroneously issued due to action or inaction, including but not limited to that by SLD, the Applicant, or Service Provider, and that the action or inaction was not in accordance with such requirements, SLD may be required to cancel these funding commitments and seek repayment of any funds disbursed not in accordance with such requirements. The SLD, and other appropriate authorities (including but not limited to USAC and the FCC), may pursue enforcement actions and other means of recourse to collect erroneously disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

We look forward to continuing our work with you on connecting our schools and libraries through advanced telecommunications services.

Sincerely,

Schools and Libraries Division
Universal Service Administrative Company

Enclosures

A GUIDE TO THE FUNDING COMMITMENT REPORT

Attached to this letter will be a report for each E-rate funding request from your application. We are providing the following definitions.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471 once an application has been processed. This number is used to report to Applicants and Service Providers the status of individual discount funding requests submitted on a Form 471.

FUNDING STARTS: Each FRN will have one of three definitions: "Funded," "Not Funded," or "As Yet Unfunded."

1. An FRN that is "Funded" will be approved at the level that SLD determined is appropriate for that idea. The funding level will generally be the level requested unless the SLD determines during the application review process that some adjustment is appropriate.
2. An FRN that is "Not Funded" is one for which no funds will be committed. The reason for the decision will be briefly explained in the Funding Commitment Decision, and amplification of that explanation may be offered in the section, "Funding Commitment Decision Explanation." An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funding available for this Funding Year was insufficient to fund all requests.
3. An FRN that is "As Yet Unfunded" reflects a temporary status that is assigned to an FRN when the SLD is uncertain at the time the letter is generated whether there will be sufficient funds to make commitments for requests for internal connections at a particular discount level. For example, if your application included requests for discounts on both telecommunications services and internal connections, you might receive a letter with our funding commitment for your telecommunications funding requests and a message that your internal connections requests are "As Yet Unfunded." You would receive a subsequent letter(s) regarding the funding decision on your internal connections requests.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on Form 471.

EARLI POSSIBLE EFFECTIVE DATE OF DISCOUNT: The earliest possible date of service for which the SLD will serve the provider for the discounts for the service.

CONTRACT EXPIRATION DATE: The date the contract expires. This will be present only if a contract expiration date was provided on Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a will be listed. This will appear only for "site specific" FRNs.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES: Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service provided in the funding year.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES: Annual eligible non-recurring charges approved for the funding year.

PRE-DISCOUNT AMOUNT: Amount in Form 471, Block 5, Item 23, Column I, as determined through the application review process.

DISCOUNT PERCENTAGE APPROVED BY THE SLD: This is the discount rate that the SLD has approved for this service.

FUNDING COMMITMENT DECISION: This represents the total amount of funding that the SLD has reserved to reimburse service providers for the approved discounts for this service for this funding year. It is important that you and the service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPWATION: This entry may amplify the comments in the "Funding Commitment Decision" area.

ENDING COMMITMENT REPORT

Form 471 Application Number: 317139
Funding Request Number: 838498 Funding Status: Not Funded
Services Ordered: Internal Connections
SPIN: 243004340 Service Provider Name: Dell Marketing LP
Contract Number: N/A
Billing Account Number: (505) 464-4897
Earliest Possible Effective Date of Discount: 07/01/2002
Contract Expiration Date: 09/30/2002
Site Identifier: 99732
Annual Pre-discount Amount for Eligible Recurring Charges: \$0.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$289,698.00
Pre-Discount Amount: \$289,698.00
Discount Percentage Approved by the SLD: N/A
Funding Commitment Decision: \$0.00 - Ineligible use(s)
Funding Commitment Decision Explanation: The service/product requested is not being
used in accordance with program rules.